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8

9 **STATE WATER RESOURCES CONTROL BOARD**

10 In the Matter of:	PETITION FOR REVIEW
11 Cleanup and Abatement Order No. R4-2021- 12 0141 Issued by the California Regional Water 13 Quality Control Board for the Los Angeles Region to Liberty Property Limited Partnership	

14
15 Petitioner Liberty Property Limited Partnership ("Liberty") petitions the State Water
16 Resources Control Board (the "State Board") for review of Cleanup and Abatement Order No. R4-
17 2021-0141 (the "Order") issued jointly to Day to Day Imports, Inc. and its lessor Liberty for
18 discharge(s) allegedly occurring from a fire outside a warehouse located at 16325 South Avalon
19 Boulevard, Carson, California 90746¹ (the "Property" or the "Site").² The Regional Board alleged
20 the fire was caused by Day to Day's improper storage of alcohol-based sanitizers, sanitizing
21 wipes, and beauty/wellness products.

22 The fire occurred at the Property on September 30, 2021. In the days following the fire,
23 after Day to Day failed to respond to cleanup and mitigation regulatory directives, Liberty stepped
24 forward to characterize and remove fire debris, and to prevent stormwater runoff. When the
25 Regional Board issued its Order ten weeks later, Liberty's mitigation actions were well underway.

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28 ¹ The Order gives the Site address as Gardena, California 90248, which is not correct.

² A copy of the Order is included at **Tab A**.

1 While Liberty continues its good faith and extensive efforts to comply with the Order,
2 Liberty's progress has been hampered by lack of unfettered access to and control over the Property
3 and by Day to Day's ongoing operations. Even though Liberty owns the Property, Day to Day and
4 its subtenants, including Virgin Scent, Inc. dba ArtNaturals ("Virgin Scent" or "ArtNaturals"), are
5 the sole occupants and operators of the Site; Liberty's access is only permitted with acquiescence
6 and cooperation of Day to Day or through court order. Liberty has taken legal action against Day
7 to Day, but has been unable to secure a court order granting unfettered access to or control over
8 the Property, due, in part, to Los Angeles County's Covid-19 Eviction Moratorium.

9 In addition to the ongoing fire debris cleanup, Liberty has taken steps to stop stormwater
10 from leaving the Site, including during recent significant rains in Southern California. These steps
11 have been successful.

12 Liberty requests that the State Board hold this Petition in abeyance, pursuant to Title 23
13 California Code of Regulations section 2050.5(d), while Liberty continues its good faith and
14 diligent efforts to work cooperatively with the Regional Board staff on attaining compliance with
15 the Order.

16 **I. BACKGROUND**

17 On September 30, 2021, there was a three-alarm fire at the Site. According to County Fire,
18 hazardous materials stored by Virgin Scent dba ArtNaturals in the parking lot ignited. (See the
19 September 30, 2021 Order to Comply issued by County Fire to ArtNaturals attached at **Tab B**.)

20 **A. Citations of Occupants³ for Hazardous Materials Violations Before the Fire.**

21 In the months prior to the fire, County Fire had cited Virgin Scent for improperly storing
22 and managing hazardous materials and hazardous wastes and directed it to relocate flammable
23 products and to remove specified hazardous materials from the Property. Reportedly, neither Day
24 to Day nor Virgin Scent dba ArtNaturals corrected these violations. (See May 19, 2021; July 27,
25 2021; and August 16, 2021 notices from County Fire attached as **Tabs C-E**, respectively.)

26 _____
27 ³ Day to Day subleases the northern half of the Property to a third party, DGA Services, Inc. dba
28 JIT Transportation ("JIT"). JIT has not been cited by the Regional Board (or any other regulator)
in connection with the fire.

1 **B. Odors in the Dominguez Channel.**

2 Stormwater leaving the Site connects in a circuitous path of subsurface drains to outfalls to
3 the Dominguez Channel, as do the stormwater drains of scores of other business and industries. In
4 the weeks after the fire, regulatory agencies received odor complaints from communities around
5 the Channel. The agencies investigated (and continue to investigate) the source of the odors.

6 The Regional Board is one of the agencies investigating the odors: First, on November 3,
7 2021, the Regional Board issued a Section 13383 Monitoring and Reporting Order to Los Angeles
8 County Flood Control District, the County of Los Angeles, and the City of Carson to assess the
9 source of the hydrogen sulfide odor in the Dominguez Channel (see Regional Board Order Nos.
10 R4-2021-0132 and R4-2021-0132-A01). That investigation is pending. Second, the Regional
11 Board issued a Section 13267 Investigative Order to Equilon Enterprises LLC dba Shell Oil
12 Products US regarding discharges from the Shell Carson Terminal into the Channel that
13 potentially caused odors in the Channel during this time (see Regional Board Order No. R4-2021-
14 0133). That investigation too is pending. Third, the Regional Board also issued a Section 13267
15 Order jointly to Day to Day and Liberty as "Suspected Dischargers", separate from but concurrent
16 with the December 9, 2021 cleanup and abatement Order issued to them, requiring them to
17 provide existing factual information as part of the Regional Board's investigation into the causes
18 of odors in the Channel. (See the Orders attached as **Tabs F-I.**) Liberty has provided its response
19 to the investigative order.

20 **C. Liberty Has Commenced Cleanup but Does Not Have Control of the Site.**

21 Liberty stepped forward to characterize and remove fire debris and to prevent stormwater
22 runoff. Progress has been slower than Liberty would have liked, hampered by Liberty's lack of
23 control over the Site and difficulties in dealing with Day to Day which has impeded progress by
24 (a) interfering with cleanup crew access to the site; (b) failing and refusing to make space on the
25 Site for debris to be processed; (c) blocking cleanup and remediation efforts by parking truck
26 trailers and shipping containers in the cleanup area and around the warehouse; (d) piling debris
27 and waste in and around frac tanks stored on site to contain captured stormwater; and (e)
28 disrupting BMP features by destroying and removing sandbag berms. (Exhibit 1, Declaration of

1 Terence Wong at ¶3.) The bottom line is that the Site is too crowded for Liberty to make quick
2 progress on cleaning up and removing fire debris. (Exhibit 2, Declaration of Lisa Reddy at ¶10,
3 **Tab J.**)

4 In response to Day to Day's conduct, and well before the Regional Board issued the Order,
5 Liberty sought relief in Los Angeles Superior Court. Specifically, Liberty filed three civil actions:
6 two unlawful detainer (eviction) actions and a breach of lease civil action. These civil actions
7 remain pending, with additional court hearings set for mid-January 2022 in the two, consolidated
8 eviction proceedings. (Exhibit 2 at ¶6.)

9 After multiple requests to Day to Day from County Fire, County Public Works, and
10 Liberty in early October to cover storm drains yielded no cooperation, Liberty sought injunctive
11 relief from the Los Angeles Superior Court to compel Day to Day to provide Liberty access to the
12 Property. The Court declined to enter an order compelling access because Day to Day represented
13 it would not interfere with Liberty's cleanup efforts. Notwithstanding that representation, Day to
14 Day has placed over 23 large metal shipping containers, trash, pallets, drums, and other piles of
15 product in the parking lot and other exterior areas, hindering cleanup operations. (See November
16 8, 2021 and November 17, 2021 Hearing Transcripts attached as **Tabs K and L**, respectively.) At
17 present, Liberty is attempting to obtain further agreement from Day to Day to remove them so that
18 further progress of the cleanup is not constrained. (Exhibit 1, ¶6.)

19 **II. LIBERTY'S COMPLIANCE WITH KEY PROVISIONS OF THE ORDER**

20 The Order requires Day to Day and Liberty to (1) implement a cleanup and abatement
21 program to cleanup waste and abate effects of waste discharging at the Site; (2) eliminate exposure
22 to rain events, contain all stormwater on Site throughout cleanup, (3) implement and maintain
23 perimeter control best management practices, (4) appropriately dispose of captured stormwater (5)
24 submit weekly progress reports; (6) complete all cleanup by December 31, 2021; and (7) submit a
25 final completion report by January 7, 2022. (Order, Required Action Nos. 1 – 7.)

26 **A. Removal of Fire Debris.**

27 Required Action No. 1 requires implementation of a cleanup and abatement program for
28 the cleanup of wastes and the abatement of the effects of the discharges of waste on beneficial

1 uses of water. Three and a half weeks before the Order issued, Liberty commenced work on
2 segregating, characterizing, and sorting by hand all debris from the fire, which at this time was
3 estimated as 7,000 tons of burned and fire-damaged products heaped in two piles approximately
4 165 feet long by 35 feet wide by 15 feet high and 660 feet long by 75 feet wide by 20 feet high in
5 the Site's parking lot. Following sorting and characterization, liquid waste is containerized pending
6 hauling to an incinerator for disposal, while solid waste is hauled away for disposal pursuant to the
7 Cleanup Plan prepared by Liberty's consultant, ATC Group Services LLC dba Atlas Technical
8 ("Atlas"), and approved by County Fire. (Exhibit 1 at ¶¶2, 3, and 11.)

9 The process of removing fire debris has been slower than desired, with Liberty's efforts
10 hampered by its tenant, constraints imposed on operations by a small working area at the Site, and
11 the need to sort fire debris by hand. Nonetheless, even with 12 days of debris sorting,
12 characterization, and removal lost to rain days, as of Friday, January 7, 2022, Liberty had hauled
13 65 truckloads totaling approximately 650 tons of solid waste from the Site for disposal and
14 segregated 210 Gaylord boxes of liquid waste for disposal, pending incinerator capacity becoming
15 available. (Exhibit 1 at ¶¶5, 7, and 11.)

16 Liberty, County Fire, County Public Works, and the City of Carson have worked together,
17 including on holidays and weekends, to implement the cleanup and remediation effort now well
18 underway.

19 **B. Preventing Stormwater Runoff.**

20 Required Action Nos. 2 and 3 require stormwater to be contained on site during cleanup.
21 Three weeks prior to mobilization on November 15, 2021, Liberty cleaned the storm drains on the
22 Site and plugged them from receiving any runoff pursuant to County Fire and County Department
23 of Public Works orders and oversight. By the time the first measurable rain of the season arrived
24 in Carson, California on October 25, the Site was isolated from stormwater runoff; neither Liberty
25 nor any regulator has identified any runoff leaving the Site since. (Exhibit 1, ¶¶ 4, 9; Exhibit 3,
26 Declaration of Karon Young at ¶¶3-6.)

27 Achieving the goal of preventing runoff from the Site has been a massive undertaking,
28 particularly given the amount of rainfall in Carson in October and December 2021. In December

1 alone, Liberty collected, stored, tested, and hauled away for disposal 1,022,000 gallons of
2 stormwater captured on the Site. At the peak of Liberty's stormwater handling efforts in
3 December, it brought sixteen 21,000 gallon Adler frac tanks to the site to store captured water
4 pending disposal. (Exhibit 1 at ¶10.)

5 **C. Covering the Debris Pile.**

6 Required Action No. 2 requires the fire debris pile to be covered. Before the first rain of
7 the season in October, Liberty and its contractor evaluated covering fire debris piles but quickly
8 determined it could not be done safely because, among other things, the piles risked toppling onto
9 workers. When Liberty's environmental consultant Atlas prepared the cleanup plan mandated by
10 County Fire, County Fire expressed concerns that volatile organic vapors in the debris could
11 ignite, including with sparks of static electricity generated by movement of any cover. Thus, the
12 County Fire-approved cleanup plan mandates that the debris pile be kept moist to minimize the
13 ignition hazard posed by its volatile contents, but not covered. (**Tab A** at Required Action No. 2;
14 Exhibit 3 ¶¶3-6; Exhibit 4, Declaration of Todd Overturf at ¶4, **Tab M** at 5.3.4.)

15 When Regional Board staff suggested covering the debris pile during a Site inspection in
16 early December, Liberty again evaluated the feasibility of covering the debris, given the progress
17 made on removing waste and the elimination of one of the piles. However, County Fire requested
18 that Liberty *refrain* from covering the pile because of its concerns about the risk of ignition.
19 (Exhibit 1 at ¶4.) After the Regional Board issued the Order, Liberty convened on December 16,
20 2021 a cross-agency coordination call with County Fire, County Public Works, City of Carson,
21 and Regional Board staff to discuss the Order and how best to navigate conflicting directives to
22 Liberty, including the directive to cover the fire debris. On this call, County Fire did not alter its
23 position; the Regional Board proposed covering the pile only during rain events on the call.
24 Thereafter, Liberty summarized its concerns in writing to the Regional Board on December 23,
25 2021, but the Regional Board did not address its concerns about the directive to cover the pile.
26 (Exhibit 5, Declaration of Brett Richer at ¶5, **Tab N**.)

27 As set forth in that correspondence, Atlas determined that covering the waste pile is
28 dangerous and infeasible because of:

1 • **Stability.** The debris piles are not stable. Covering the piles is difficult and
2 dangerous, as the piles vary in height and consist of splintered and burned wood pallets, sheet
3 metal, nails, broken plastic containers, and other sharps. It is unsafe for crews to attempt to climb
4 or scale the piles to install a cover.

5 • **Access.** Installation of a cover requires space sufficient to deploy heavy equipment,
6 including a crane, on either side of the pile. The space to the east of the pile is occupied by Day to
7 Day's shipping containers, despite its promise in Court to move containers out of the way. Heavy
8 equipment cannot be used west of the pile because of the bioswale. Any work in the bioswale risks
9 causing the pile to slough into the bioswale, threatening both the safety of workers in the bioswale
10 and the bioswale itself.

11 • **Delay.** Liberty's remediation contractor estimates it would take approximately one
12 working day to install or remove a cover over the debris pile. During this time, cleanup work
13 would have to stop.

14 • **Anchoring.** To be effective, any cover must be anchored along the sides and at the
15 top to prevent the wind from lifting it. There is no safe location to anchor any cover over the
16 debris pile. The irregular shape and density of the pile also may create ponding during rain events
17 on the top of the pile, causing sharp materials to pierce the cover. Puncturing the cover would
18 defeat the stated purpose of covering the pile.

19 • **Fire Hazard.** Covering debris piles creates a significant ignition and explosion
20 hazard risk from the pile drying out under the cover and the plastic covering generating static
21 electricity as it moves. The potential for heat buildup and static discharge, coupled with
22 containment and concentration of flammable vapors under the sheeting, risks potentially explosive
23 conditions. Covering the pile also would make required fire watch efforts nearly impossible.

24 The Order's stated purpose for covering the debris pile is to eliminate exposure to rain
25 events. (Order at Required Action No. 2.) As detailed in Section B. above, Liberty's has captured
26 and contained stormwater in contact with the Site, and so has eliminated the risk that rain water
27 will percolate through the debris pile and discharge from the Site. For that reason, not only is a fire
28 debris cover unsafe, but also is not needed. Moreover, as set forth in Liberty's December 23, 2021

1 letter to the Regional Board, covering the pile before rain events will substantially slow progress
2 on the cleanup with the loss of two work days each for each rain event. (Exhibit 1 at ¶5, **Tab N.**)

3 **D. Effects of Discharges on the Dominguez Channel Estuary.**

4 Required Action No. 1 requires Liberty to cleanup and abate the effects of waste
5 discharged from the Site on storm drains "near the Site, and any impacted receiving waters,
6 including the Dominguez Channel Estuary." (**Tab A** at Required Action No. 1.) Liberty and the
7 Regional Board have not yet discussed how the Regional Board envisions compliance with this
8 part of the Order, which raises additional issues about the validity and scope of the Order. For this
9 reason, Liberty reserves the right to supplement its objections to that portion of the Order should
10 this Petition become active.

11 **III. BASIS OF THE PETITION FOR REVIEW; POINTS AND AUTHORITIES.**

12 Liberty submits that the Order is improper and inappropriate as issued to Liberty, and that
13 Liberty is aggrieved by being under compulsion of law to comply with an invalid Order, at
14 significant expense. In addition, at least one provision of the Order would create a hazard to
15 human safety.

16 Liberty provides here a general statement why the Order, as issued to Liberty, is improper
17 and inappropriate, along with a brief statement of points and authorities in support of those
18 reasons. Because the Petition is to be held in abeyance, Liberty will supplement its reasons and its
19 supporting points and authorities should the Petition be activated in the future.

20 The Order is improper and inappropriate in many ways, including:

- 21 1. The Regional Board has not provided evidence of a causal link between the alleged
22 discharges from the Site and Dominquez Channel odors.
- 23 2. Liberty is not a "discharger" within the meaning of Water Code⁴ Section 13304
24 because it did not cause or permit any discharges.
- 25 3. The December 31, 2021 date mandated for completion is not attainable.
- 26 4. The Order's directive that fire debris waste piles be covered is infeasible, creates a
27 safety hazard, and is unnecessary.

28 ⁴ All statutory references are the the California Water Code, unless otherwise noted.

1 **A. The Regional Board Has Not Provided Evidence of a Causal Link Between the**
2 **Alleged Discharges From the Site and Dominquez Channel Odors.**

3 Any cleanup and abatement order must be based on substantial evidence for the State
4 Board to uphold it. *In the Matter of the Petition of Exxon Company, U.S.A., et al. of the Adoption*
5 *of Cleanup and Abatement Order No. 85-066*, State Board Order No. WQ 85-7 at 10 -11 ("Order
6 No. WQ 85-7") (citing *Topanga Ass'n for a Scenic Community v. County of Los Angeles* (1974) 11
7 Cal.3d 506) ("*Topanga*"). Before issuing the Order, the Regional Board was required to "establish
8 a causal link or connection between a named responsible person and an actual or threatened
9 discharge of waste." *San Diego Gas & Elec. Co. v. San Diego Reg'l Water Quality Control Bd.*
10 (2019) 36 Cal.App.5th 427, 440 (emphasis original) ("*SDG&E*"). For each party included in an
11 order, "there must be a reasonable basis on which to name each party." Order No. WQ 85-7, at 11.
12 And, there must be "substantial evidence to support a finding of responsibility," consisting of
13 "credible and reasonable evidence which indicates the named party has responsibility." *Id.* at 11-
14 12.

15 The Regional Board failed to establish a causal link between the Site and odors in the
16 Dominguez Channel. The Order does not include or even reference evidence that chemicals
17 causing the odors in the Channel flowed from the Site to the Channel, or that water chemistry in
18 the Channel caused the die-off of vegetation and the formation of hydrogen sulfide gas posited by
19 the South Coast Air Quality Management District as the cause of the odors. Indeed, no data are
20 provided to show that products from the Site are or were in Dominguez Channel waters. Absent
21 this evidence, the Order fails to establish a causal nexus between the Site and odors in the
22 Channel.

23 Ordinarily, a Section 13267 Investigative Order issues and data are gathered to inform and
24 direct appropriate cleanup and abatement. By issuing the Cleanup and Abatement Order before
25 gathering these data and other evidence, the Regional Board has moved ahead without the
26 necessary substantial evidence to support its Order. Other "Suspected Dischargers" to the Channel
27 have been issued investigative orders to determine the nexus between their dischargers and
28 Channel odors, and that investigation remains pending. Liberty has provided the information

1 available to it to the Regional Board in response to the separate Section 13267 Investigative Order
2 and will continue to work cooperatively with the Regional Board to investigate whether the Site is
3 a source of odors in the Channel. However, until more is known, the Order lacks the evidence
4 required to assert that discharges from the Site caused odors in the Channel.

5 **B. Liberty Is Not a “Discharger” Within the Meaning of Water Code Section**
6 **13304 Because It Did Not Cause or Permit any Discharges.**

7 The Order concludes that Liberty "caused or permitted waste to be discharged or deposited
8 where it is, or probably will be, discharged into the waters of the State[.]" (**Tab A** at ¶1.) This
9 factual conclusion is supplemented by a legal conclusion, namely that Liberty is a discharger:

10 because, as the current owner of the property, it has caused or
11 permitted waste to be discharged ... and continues to threaten to
12 create, a condition of pollution or nuisance[and] has the legal ability
13 to control the discharge.

14 (**Tab A** at ¶19.) The assertion that Liberty permitted the discharge because it has the "legal ability
15 to control the discharge" as the owner of the property is, under the circumstances of this case,
16 erroneous and not substantiated by the facts as set forth in this Petition.⁵ (**Tab A** at ¶19.) The
17 Regional Board proffers no evidence to support its factual or legal conclusions, nor could it. And,
18 Liberty is, in fact, abating fire debris and capturing stormwater under oversight by County Fire
19 and County Public Works, thereby preventing any threat to create a condition of pollution or
20 nuisance.

21 Instead, the Order lists nine separate "Observations of Waste Discharges", none of which
22 sets forth evidence of any discharge. (**Tab A** at ¶9.) Thus, the Order's conclusion that Liberty
23 permitted the discharge is not supported by evidence provided by the Regional Board and is

24 ⁵ The Order cites *Leslie Salt Co. v. San Francisco Bay Conservation and Dev. Comm'n* (1984) 153
25 Cal.App.3d 605, 619–620 for the proposition that "[u]nder California law, courts have historically
26 held, and modern courts maintain, that possessors of land *may* be liable for a nuisance on that land
27 even if the possessor did not create the nuisance." (**Tab A** at n. 2) (emphasis added). *Leslie Salt*
28 turned on whether the "possessor" of land "knows or should know of the condition and the
nuisance or unreasonable risk of nuisance involved" and "failed after a reasonable opportunity to
take reasonable steps to abate the condition[.]" *Id.* Liberty was not (and still is not) in possession
of the Property, and it certainly has taken all reasonable steps to abate the condition even without
legal possession. (Exhibit 2 at ¶5, **Tab O**.)

1 contradicted by the facts regarding Liberty's actions, as described in this Petition. A Regional
2 Board must make findings that “bridge the analytic gap between raw evidence and ultimate
3 decision or order.” *In the Matter of the Petition of Las Virgenes Municipal Water District*, Order
4 No. WQ 2001-03, at 4 ("Order No. WQ 2001-03"). Like Order No. WQ 85-7, Order No. 2001-03
5 relies on *Topanga*. See also, *In the Matter of the Petition of City and County of San Francisco*,
6 *San Francisco Baykeeper, et al.*, Order No. WQ 95-4, at 23 ("Order No. WQ 95-4") (also relying
7 on *Topanga*).

8 **C. The December 31, 2021 Date Mandated for Completion Is Not Attainable.**

9 Cleanup of fire debris at the Site cannot be (and has not been) completed by the December
10 31, 2021 deadline set by the Order. As detailed above, Liberty's cleanup is hampered by a lack of
11 space, lack of power,⁶ and its lack of control over the Site. Liberty filed three separate actions in
12 Los Angeles Superior Court to address its problem Tenant, including two unlawful detainer
13 (eviction) actions—one filed prior to the fire for nonpayment of rent and one after the fire, for
14 breach of lease covenants—and a civil action for breach of lease. Liberty filed a motion for
15 summary judgment to recover possession in the breach of covenants eviction action (all evictions
16 for nonpayment of rent are stayed due to the extended Los Angeles County Covid-19
17 Moratorium), which motion will be heard on January 13, 2022. In the action for breach of lease,
18 Liberty has twice sought injunctive relief to facilitate its cleanup efforts, but has not been
19 successful. Unless and until Day to Day vacates the premises and Liberty regains possession, it
20 will be unable to do much to expedite cleanup because of the Site's limited space.

21 Cleanup and abatement of the "effects of the discharges on beneficial uses of water" also is
22 not attainable by the December 31, 2021 deadline. As referenced above, the Regional Board has
23 not identified the storm drains near the Site purportedly impacted by discharges from the Site. The
24 results of the several investigative orders issued by the Regional Board regarding odors in the

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28 ⁶ As is customary, County Fire cut power to the Property on the day of the fire. It has not been
restored.

1 Channel were not available prior to December 31, 2021. As a result, Liberty was (and remains)
2 unable to comply with this portion of the Order.

3 **D. The Order's Directive That Fire Debris Waste Piles Be Covered Is Infeasible,**
4 **Creates a Safety Hazard, and Is Unnecessary.**

5 The Order requires Liberty to "eliminate exposure to rain events by covering waste
6 piles[.]" (Tab A at Required Actions No. 2.) However, covering the waste piles would be
7 dangerous and is infeasible, as set forth in Section II. C., above. In sum, the instability of the
8 debris pile, coupled with the inability to access it from both sides, make the work of covering the
9 pile⁷ difficult and dangerous. Any cover placed over the pile is unlikely to be effective because
10 there is nowhere to anchor it and the heterogeneity of the pile will cause the cover to sag during
11 rain, creating ponding on top of the cover. These ponds are likely to press down on sharps in the
12 pile, leading to punctures in the cover, which will allow water to drain into the pile and defeat the
13 purpose of placing it over the pile. Importantly, placing and removing a cover ahead of and after
14 rain events will consume time that cannot be spent on the priority of cleaning up and removing fire
15 debris from the Site.

16 Each of these concerns was discussed with Regional Board staff during the December 16,
17 2021 cross agency coordination call and thereafter detailed in writing in Liberty's December 23,
18 2021 letter to the Regional Board requesting amendment to and extension of time for Liberty to
19 Respond to the Order. (Exhibit 5 at ¶5, **Tab N.**) The Regional Board denied Liberty's request for
20 an extension of time but otherwise did not address Liberty's requests for amendments to the Order,
21 including the cover issue. (Exhibit 5, ¶6, **Tab P.**) With the successful best management practices
22 implemented on the Site, the capture of stormwater, and the prevention of any runoff from the
23 Site, the impetus for the Order's directive to cover the debris pile is not present.

24 **IV. PRESENTATION OF ISSUES TO REGIONAL BOARD.**

25 A true and correct Copy of this Petition was delivered by hand and email to the Regional
26 Board. The address to which Petitioner sent the copy to the Regional Board is:

27 _____

28 ⁷ As of the date of this Petition, Liberty has removed one of the two fire debris piles. (**Tab J.**)

1 Russ Colby
2 State of California Regional Water Quality Control Board
3 Los Angeles Region
320 West Fourth Street, Suite 200
4 Los Angeles, CA 90013

5 Russ.Colby@waterboards.ca.gov

6 A copy of this Petition is likewise being sent to discharger Day to Day Imports, Inc. by
7 service on counsel John A. Conkle, Mark D. Kremer, and Aryeh L. Kaufman. A true correct copy
8 of this Petition was mailed by First Class mail and email to Day to Day by and through Day to
9 Day's counsel John A. Conkle, Mark D. Kremer, and Aryeh L. Kaufman. The addresses to which
10 Petitioner sent the copy to the Day to Day are:

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17 and

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22 **V. PETITIONER WAS NOT GIVEN OPPORTUNITY TO COMMENT OR RAISE**
23 **CONCERNS BEFORE REGIONAL BOARD ACTION.**

24 The Regional Board's Order was issued in final form, with no opportunity for comment
25 and without hearing. Liberty was given no opportunity to review and/or challenge the findings
26 made by the Executive Officer in support of the Order, or present any evidence before the
27 Executive Officer issued the Order. After the Order issued, Liberty arranged for a telephonic
28 meeting with Regional Board staff on December 16, 2021, and raised the factual issues evidentiary
concerns about the Order in its December 23, 2021 letter to Regional Board staff. (**Tab N.**)

1 **VI. PETITIONER CONTACT INFORMATION**

2 Petitioner Liberty's name, address, telephone number, and email address are:

3 Liberty Property Limited Partnership
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5 Petitioner should be contacted through its legal counsel:

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12 Respectfully submitted,

13 DATED: January 10, 2022

HANSON BRIDGETT LLP

14
15 By: 

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18 Attorneys for Attorney for Petitioner, Liberty
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